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Letter dated 19 January 2007 from the Permanent Representative of the Socialist Republic of Viet Nam to the United Nations addressed to the Chairman of the Committee

I have the honour to refer to your letter dated 1 November 2006 regarding the implementation of Security Council resolution 1718 (2006) and enclose herewith the report of Viet Nam on the implementation of relevant provisions of paragraph 8 of the resolution (see annex).

(*Signed*) **Le Luong Minh**
Ambassador Plenipotentiary and Extraordinary
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Annex to the letter dated 19 January 2007 from the Permanent Representative of the Socialist Republic of Viet Nam to the United Nations addressed to the Chairman of the Committee

Viet Nam country report on the implementation of Security Council resolution 1718 (2006)

The consistent position of Viet Nam is against the proliferation of weapons of mass destruction toward the complete elimination of these weapons. Keeping in line with this position, immediately after the adoption of the Resolution 1718 by the United Nations Security Council , the Government of Viet Nam has requested its relevant agencies and authorities to strictly implement the Resolution.

In response to the appeal made at Paragraph 11 of Resolution 1718 (2006) of the United Nations Security Council, Viet Nam now offers its country report to the Security Council on the current legal system of Viet Nam as well as measures that Viet Nam has been applying to implement Paragraph 8 of Resolution 1718 as follows:

I. In regard to the export and transfer of the items referred to in the provisions of the resolution (8a, b, c)

In Viet Nam, all weapons and armaments are under the strict and sole control of the State and individuals are prohibited from possessing and using weapons except for the case of sports gun and hunting rifles. Weapons and related materials are considered special goods that are prohibited from production, stockpiling, transporting and trading. Apart from the laws and regulations applied generally on all weapons, Viet Nam also promulgated additional regulations for the control of weapons of mass destruction and related materials.

Articles 230, 234, 236, 237, 238 and 239 of the Criminal Code of 1999 set out the detailed punishment frameworks for offence on illegally producing, stockpiling, transporting, using, trading in and appropriating military weapons and technical equipments; offence on breaching regulations on management of weapons, explosives and supporting equipment; offence on illegally producing, stockpiling, transporting, using, trading in and appropriating radioactive substances; offence on breaching regulations on radioactive substances management; offence on illegally producing, stockpiling, transporting, using or trading in inflammables, toxins; and offence on breaching regulations on the management of inflammables, toxins.

Since 1996, Viet Nam has promulgated the Ordinance on Radiation Safety and Control, which clearly provides that all activities relating to radioactive substances, whether conducted by the State or individuals including the possession, use, production, import-export and transportation of radioactive sources and nuclear materials must acquire the permission and abide by the control of the Ministry of Science and Technology. On July 16, 1998, the Government of Viet Nam further promulgated Decree No.50/1998/ND-CP guiding the detail implementation of the Ordinance.

Since the year 2000, in order to enhance and further improve the system of and measures for management and control, the Viet Nam Atomic Energy Agency, in collaboration with the Nuclear and Radiation Safety Bureau (now known as the Department of Radiation and Nuclear Control and Safety), has designed and implemented the National Nuclear and Radiation Safety Action Plan. The key components of the action plan include: further improving the basic legal system relating to radioactive safety and control, promulgating a Government decree on the implementation of the Ordinance on Radiation Safety and Control, Decree on Administrative Punishments for Violations of the Radiation Safety and Control as well as a number of other related circulars, directives and standards; improvement of the State managerial system for radiation safety and control from the Centre to the localities while at the same time conducting licensing and inspection works for radioactive establishments in the country.

In regard to chemicals, the Ministry of Industry is the State monitoring authority. On August 3, 2005, the Government of Viet Nam promulgated Decree No.100/2005/ND-CP on the implementation of the Convention on Chemical Weapons, which gives out strict regulations for the transfer of chemicals. In practice, Viet Nam does not supply Scheduled chemicals as well as equipments and technology relating to Scheduled chemicals to any country.

On August 26, 2005, the Prime Minister issued a Decision No.212/2005/QD-TTg promulgating the Regulation on Bio-safety Control over Genetically Modified Organisms (GMO) and GMO-based products. The Regulation provides for State management over bio-safety in the following activities: scientific research, technological invention, testing; production, trading and use; import, export, storage and transportation; risk assessment and management, bio-safety licensing for GMO and GMO-based products in order to protect human health, the environment and bio-diversity.

Article 15 of Decree No.32/2005/ND-CP of the Government sets out the Regulations on Land Border Gates and prohibits "smuggling and transporting or illegal using goods, currencies, weapons of various types, explosives, inflammables, toxins, radioactive substances, narcotics and other goods banned from import and export by the State" at the border gates.

According to Annex 01 attached to Decree No.12/2006/ND-CP issued on January 23, 2006 by the Government on the Regulations for Detail Implementation of the Trade Law regarding international trading of goods and activities of dealers working in the field of buying, selling, processing and transiting goods with foreign countries, "weapons, ammunition, explosives (except for industrial explosives), military equipment and technology" fall into the list of prohibited goods for export.

In addition, Art 242 of the 2005 Trade Law clearly states that "All goods of foreign organisations and individuals are permitted to transit through the territory of Viet Nam and only need to complete customs procedures at the entry and exit customs points in accordance with the laws except in the following cases: a) Goods that are weapons, ammunition, explosives and other highly dangerous goods unless having the permission of the Prime Minister..."

In regard to the temporary import for re-export, regulations for business in the form of temporary import for re-export and transit shipment stipulate that the temporary import for re-export and transit shipment of prohibited goods must have the permission of the Ministry of Trade. In practice, there have been no cases of temporary import for re-export and goods under transit, in which nuclear, chemical and biological weapons and its means of delivery are detected.

Art 159 of Viet Nam Civil Aviation Law of 2006 stipulates that "Air transportation of weapons, war devices and nuclear waste is prohibited in the territory of Viet Nam except the special cases with the permission of competent authorities. This regulation is also applied to chartered aircraft".

Regarding the transshipment goods, the Inter-disciplinary Circular No.08/2004/TTLT-BTM-BTC-BGTVT issued by the Ministries of Trade, Finance and Transport on December 17, 2004 on the instruction of container transshipment services at Viet Nam's sea ports specify the prohibited goods in transshipment as follows: weapons, ammunition, explosives and military equipment; atomic waste and toxic substances in the Prohibited Toxic Chemicals List as stipulated by the Vietnamese laws.

Viet Nam's customs have been and will be undertaking the following measures:

- Cooperate with the other countries' customs and relevant international organisations on the transportation of prohibited and smuggled goods across borders.
- Conduct capacity building and customs modernisation projects and provide border gates with advanced equipments to enhance the goods supervision across national borders.
- Formulate and upkeep the control measures for cross-border goods in a proper and effective manner; assure law enforcement to detect and prevent the illegal transportation of smuggled and prohibited goods, weapons, explosives and other hazardous substances.

II. In regard to the freezing of funds, financial assets and economic resources (8d)

The legal base for Viet Nam to implement Article 8(d) of Security Council Resolution 1718 is composed of the following documents: the 1997 Law on State Bank; the 1997 Law on Credit Institutions; the 2005 Ordinance on Foreign Exchange; Decree No. 202/2004/ND-CP dated December 10, 2004 by the Government on Administrative Penalties in monetary field and banking operations; Decree No. 64/2001/ND-CP dated September 20, 2001 by the Government, on payments through payment service organisations; Decree No. 74/2005/ND-CP dated June 7, 2005 by the Government on prevention and combat money laundering; Decree No. 48/2001/ND-CP by the Government on the Operation of the People's Credit Funds; and Decree No. 69/2005/ND-CP dated May 26, 2005 by the Government on the Amendments of Decree No 48.

In particular, Decree No. 74/2005/ND-CP dated June 7, 2005 by the Government stipulates measures to address money laundering in Viet Nam in

monetary or asset transactions, including the responsibilities of individuals and agencies in preventing and countering money laundering as well as international cooperation in this field. In accordance with the Decree, an Anti-Money Laundering Information Centre (AMLIC) administered by the State Bank is set up to receive information on illegal transactions or transactions of illegal origins. Financial institutions and non-banking intermediary stakeholders such as lawyers and accountants are obliged to report suspicious transactions. The State Bank of Viet Nam is assigned as the lead State monitoring authority and has to report periodically to the Government. The Ministry of Public Security is the lead authority in handling money laundering related crimes, including investigation of money laundering cases. Other ministries and agencies have the duty to coordinate with these two authorities to implement the Decree. The Decree also elaborates provisional measures that might be taken in the process of preventing and combating money laundering as follows:

a/ Not to effect transactions;

b/ To block accounts;

c/ To seal up of seize property;

d/ To seize violators;

e/ Other preventive measures provided for by law.

The Government of Viet Nam will base itself on the above legal instruments and may consider promulgating by-laws or other instruments deemed necessary to make sure that Vietnamese financial institutions can freeze funds, financial assets and economic resources of persons or entities to be designated by the 1718 Committee or the Security Council.

III. In regard to entry and exit (8e)

In the Ordinance on Entry, Exit and Residence of Foreigners in Viet Nam No. 24/1999/PL-UBTVQH10 on April 28, 2000, Article 1(2) reads "Foreigners entering, departing, transiting or residing in Viet Nam must abide by Vietnamese laws and respect the traditions, custom and practices of the Vietnamese people. It is strictly prohibited to take advantage of the entry, exit, transit and residence in Viet Nam to violate the law."; Article 1(3) further reads "In case of international conventions or treaties that Viet Nam is adhered to otherwise stipulate in regard to the entry, exit, transit and residence of foreigners in Viet Nam, the provisions of such international conventions or treaties shall prevail." Besides, Article 4 of the Ordinance makes it clear that "foreigners entering or exiting Viet Nam must hold passports or alternative travel documents (hereinafter referred to as passport) with a valid visa issued by an authorized Vietnamese agency, except for cases wherein a visa is not required." Article 19 of the Ordinance also stipulates that "the Ministry of Public Security has the responsibility before the Government to lead the State managerial activities on entry, exit and residence of foreigners in Viet Nam."

Apart from the Ordinance of 2000, there are also the Decree No.21/2001/ND-CP for detail implementation of the Ordinance of 2000 and the Decree No.32/2005/ND-CP on March 11, 2005 of the Government stipulating

the Regulations for Land Border Gates and the exit and entry, transit, import and export through the border gates of people, vehicles and goods, in order to manage and protect sovereignty and national border security. Article 15 of this Decree strictly prohibits all false passports and travel documents; organisation, guide and transportation of people for illegal migration purposes at border gates.

As regard to the national waters, the Ordinance on Marine Police of Viet Nam No. 04/1998/PL-UBVQH10 dated March 25, 1998 stipulates that the Vietnamese Marine Police is the designated force of the State to conduct State management and maintain law and order as well as the adherence to Vietnamese laws and other related international treaties and conventions that Viet Nam is a party to over Vietnamese waters and continental shelf.

These are the legal basis for Vietnamese relevant authorities to tightly control the entry and exit of travellers at its border gates.

Viet Nam and the Democratic People's Republic of Korea have exchanged an Official Note on the exemption of visa for holders of diplomatic and official passports as well as collective passports for groups on official duty, bringing this practice into effect since October 1, 1956 and later, applied to holders of ordinary passport on official duty since April 1, 1966.

Viet Nam shall cooperate to prevent the entry or transit of persons to be designated by the 1718 Committee or the Security Council.

IV. Regarding the prevention of illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials (8f)

The 2005 Maritime Law prohibits the "illegal transportation of people, goods, luggage, weapons, radioactive, hazardous waste and narcotics". The Government's Decree No.71/2006/ND-CP on the 25th July 2006 stipulates the procedures required for vessels entering or exiting Viet Nam. Transiting vessels must acquire permission, report its transit and confirm the report. After granting permission, the port authority "shall inform other port authorities on transit route, border security agency, customs and other government agencies in charge of the vessel's transit". This Decree also stipulates the two cases requiring direct management and monitoring of state agencies on board, which are: (i) vessels with obvious signs of law violations and (ii) situations whereby such monitoring and management are necessary to safeguard security, national defence, law and order, or to prevent disease.

As such, apart from the content mentioned in Section I of this report, the Maritime Law, Government's Decree No.71/2006/ND-CP on the 25th July 2006 on port management and sea routes, as well as the Government's Decree No.62/2006/ND-CP on administrative punishments in maritime and international law are the legal foundations to ensure the implementation of Resolution 1718. Viet Nam is willing to cooperate in the implementation of this article of the Resolution.

Conclusion

Once again, Viet Nam reaffirms its efforts and willingness to cooperate with other countries to implement Resolution 1718. In practice, the cooperation activities between Viet Nam and Democratic People's Republic of Korea in the fields of economics, trade, finance, banking, healthcare and communication, etc. are few or non-existence and such activities do not violate Resolution 1718 of the United Nations Security Council.

Viet Nam is for the peace, stability and denuclearisation of the Korean Peninsula and dispute settlement through peaceful negotiations.